IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH

AT HYDERABAD

(SPECIAL ORIGINAL JURISDICTION)

Wednesday, the Fourth day of August, two thousand and four

PRESENT

THE HON'BLE SRI JUSTICE V.ESWARAIAH

W. P. Nos.24929/ 2003 AND 3033/2004.

WRIT PETITION No.24929 OF 2003

BETWEEN:

S.Srinivasulu S/o Venkatasubbaiah, aged about 36 years, Occ: Shramik, R/o Cuddapah.

Petitioner

And

1. A.P.S.R.T.C., represented by its Managing Director, Musheerabad, Hyderabad.
2. The Works Manager, Zonal Workshop, APSRTC., Cuddapah.
3. The Asst.Works Manager-I, Zonal Workshop, APSRTC., Cuddapah.
4. The Vigilance and Security Officer, APSRTC., Cuddapah.
5. The Mandal Revenue Officer, Cuddapah

(R5 added as per the oral Court order dated 28-11-2003).

Respondents

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court

will be pleased to call for the records from the 3rd respondent and issue an appropriate writ, order or direction particularly one in the nature of writ of Mandamus, declaring the impugned order of suspension passed by the 3rd respondent in his proceedings No.P5/114/(9)/2003-2WS.CDP, dated 5-11-2003 as illegal, unjust, contrary to law, contrary to circular No.PD-11/2000, dt.3-2-2000 and also contrary to the circular No.PD-10/2002, dt.9-3-2002 and also violative of Articles 14,16 and 21 of the Constitution of India and consequently set aside the suspension order dt.5-11-2003 passed by the 3rd respondent.

For the Petitioner: Mr.A.K.Jayaprakash Rao, Advocate.

For the Respondents 1 to 4: Mr.P.Vinayaka Swamy

For the respondent 5: G.P. for revenue.

AND

WRIT PETITION No.3033 OF 2004

BETWEEN:

S.Srinivasulu S/o Venkatasubbaiah, aged about 36 years, Occ: Shramik, E.No. 405635, ZWS, Cuddapah, R/o Cuddapah.

Petitioner

And

1. A.P.State Road Transport Corporation, represented by its Managing Director, Musheerabad, Hyderabad.
2. The Assistant Works Manager-I, APSRTC., Zonal Workshop, Cuddapah.
3. The Assistant Manager (T-Enquiries), APSRTC., RM's Office, Cuddapah.
4. The Mandal Revenue Officer, Madanapalle

5. The District Collector, Cuddapah.

6. The District Collector, Chittor.

(RRs.4 to 6 added as per oral Court order dt. 3-8-2004).

Respondents

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to call for the records from the respondents and issue an appropriate writ, order or direction particularly one in the nature of writ of Mandamus, declaring that the order passed by the 2nd respondent in proceedings No.P5/114/(9)/03-ZWS.CDP, dated 27-1-2004, as well as Proceedings No.Enquiries/27(7)/04-RM, dated 4-2-2004 issued by the 3rd respondent as illegal, unjust, contrary to law, contrary to law, arbitrary, in violation of principles of natural justice and in violation of Articles 14,16 and 21 of the Constitution of India and grant all consequential benefits.

For the Petitioner: Mr.A.K.Jayaprakash Rao, Advocate.

For the Respondents 1 to 3: Mr.P.Vinayaka Swamy

For the Respondents 4 to 6: G.P. for revenue.

The Court made the following :

COMMON ORDER:

The same petitioner filed these two Writ Petitions against the respondents and the issues in both the Writ Petitions are common, as such, both the petitions can be disposed of by a common order.

W.P.No.24929 of 2003 is filed by the petitioner questioning the suspension order dated 5-11-2003, suspending the services of the petitioner, pending enquiry into the allegations of producing a false Scheduled Caste Certificate.

It is alleged in the said order that the petitioner filed a bogus Community Certificate as if he belongs to 'Hindu-Adi-Andhra-Mala' Caste, though he belongs to Padam Sale caste. Accordingly, the following charge has been framed by the second respondent.

> **Charge:** For having produced Bogus Caste Certificate at the time of appointment in APSRTC., wherein it was mentioned that you belong to Hindu-Adi-Andhra-Mala, whereas you actually belong to Padma Sale Caste, which constitutes misconduct under Regulation 28 (xxii) of APSRTC Employees (conduct) Regulations, 1964.

The petitioner was asked to submit his explanation within seven days as to why further action should not be taken.

W.P.No.3033 of 2004 is filed, questioning the order of the second respondent dated 27-1-2004 in nominating the enquiry officer to conduct an enquiry into the aforesaid charge.

Both the above orders have been suspended by this Court and on the Vacate Stay Petitions filed by the A.P.S.R.T.C., these two Writ petitions are taken up for final disposal.

It is the case of the petitioner that he was selected by the Selection Committee for the post of Sramik, which is ear-marked for Scheduled Caste Community as he belong to the said community. It is stated that the petitioner has studied in UMT Elementary School,

Argoyavaram, Chittoor District from 1973 and thereafter he studied up to 10th class in Sree Veerabrahmendra Z.P. High School, Kandimallayyapally, Cuddapah District. It is further stated that he resided in the SC/ST Hostel, Madanapally under Brahmamgari Matam. He passed S.S.C., in 1982 and also passed I.T.I., in Electrical Trade during the year 1983-85 and undergone apprentice training in the respondent corporation.

It is further stated that after verification of his Caste Certificate as well as the educational certificates he was appointed on 21-4-1990 pursuant to the selection made by the selection committee and accordingly, he joined duty on 25-4-1990. On an anonymous petition sent against the petitioner, an oral enquiry has been made and the petitioner was placed under suspension by issuing a charge sheet dated 5-11-2003.

It is the case of the petitioner that he belongs to Scheduled Caste Community only and therefore on the complaint made by an unknown person, it is not open for the officials of the APSRTC., to make an enquiry as regards to the genuineness of the Caste Certificate of the petitioner. But, it is only for the competent authority to cancel the alleged bogus community certificate as per the provisions of the Andhra Pradesh (SC, ST & BCs) Regulation of Issue of Community Certificates Act, 1993 (in short Act).

In the counter filed by the APSRTC., it is stated that the Corporation received an anonymous petition against the petitioner, stating that the petitioner belongs to Padma Sale caste which comes under BC-B category, but the petitioner secured employment by producing a false caste certificate stating that he belongs to Scheduled Caste. Basing on the said petition, the Managing Director of APSRTC., vide his letter dated 12-8-2003 called for the report on the allegations against the petitioner from the second respondent. The second respondent in turn informed to the first respondent vide his letter dated 22-8-2003 stating that no record is available in his P-Case for verification of his caste certificate and the caste certificate was not verified by the

competent authority. The verification of the Superintendent of Police is only with regard to the antecedents and character of the petitioner, but not with regard to the caste certificate. Subsequently, the matter has been entrusted to the Director, Vigilance Department and on the enquiry made by the Sub Inspector of Police (INT) of Vigilance and Security Office, Cuddapah, it was found that the Mandal Revenue Officer admitted that the petitioner produced a false caste certificate. It is stated that the Mandal Revenue Officer, Cuddapah, vide his letter dated 24-9-2003 informed to the petitioner that he belongs to Padma Sale community, but not Adi Andhra Mala. Further the Mandal Revenue Officer cancelled the caste certificate and sought for necessary action against the petitioner. On the said report, the respondent Corporation came to the conclusion that the petitioner has produced a bogus certificate and by mis-representation and secured the job and therefore, he was suspended, pending enquiry.

I have perused the relevant records. The petitioner produced a caste certificate without any date, which was secured from the Mandal Revenue officer, cuddapah, stating that Samala Sreeenivasulu son of S.Venkatasubbaiah is a resident of 15/146F, Bellary Road, Cuddapah, Cuddapah District of Andhra Pradesh State has been verified as per the procedure laid down and he belongs to the Indian Hindu Adi Andhra Mala Caste. The petitioner has also produced the Study, Caste and Conduct Certificate obtained from UMTS Elementary School, Arogyavaram of Chittoor District, dated 20-6-1983, stating that his Admission number is 2696/73 and the petitioner has studied up to IV Class in the said school during the year 1973-74 to 1976-77 and he belongs to Hindu-Adi-Andhra Caste of Hindu Religion as per the school records.

The same petitioner filed another Caste Certificate recently issued by the Mandal Revenue Officer, Madanapalle of Chittoor District, certifying that S.Sreenivasulu s/o S.Venkatasubbaiah, resident of Arogyavaram, H/o Pothapolu of Madanapalle Mandal, Chittoor District has been verified as per the procedure laid down and he belongs to Adi Andhra caste vide proceedings in CR.No.6970/2003,

dated 1-10-2003. The Mandal Revenue Officer, Madanapalle also issued another Community, Nativity and Date of Birth Certificate, vide Sl.No.3779, District Code 0101, Mandal Code 035 in SSID 1035-0000-4042-4601, Appl.No.2004 19, dated 27-1-2004, certifying that the petitioner is the native of Pothapolu, (H.No.Arogyavaram), Madanapalle Mandal of Chittoor District belongs to Adi Andhra – SC (Group-D) under the Constitution of (Scheduled Castes) Order, 1950.

The Mandal Revenue Officer, Cuddapah District vide his letter No.FD929/2003, dated 24-9-2003 informed to the Vigilance and Security Officer, APSRTC., Cuddapah, stating that he enquired into the genuineness of the caste certificate of the petitioner. The petitioner is a resident of H.No.15/14, Akula Pedda Besta Veedhi of Cuddapah District and he belongs to Padma Sale caste. He has obtained Adi Andhra Mala certificate by hiding the fact and cheating the officials and secured the job in APSRTC.

Pursuant to the request of the Vigilance and Security Officer, APSRTC., the Mandal Revenue Inspector, Cuddapah made an enquiry and submitted his report vide his letter in Dis.No.MRI/CDP/2003, dated 22-9-2003 and basing on the said report, the Mandal Revenue Officer submitted his report dated 24-9-2003, stating that the petitioner belongs to Padma Sale caste, but not Adi Andhra Mala caste. Therefore, I am of the opinion that it is a fit case, where the competent authority i.e., the District Collector, Cuddapah to make necessary enquiry with regard to the genuineness of the community certificate produced by the petitioner for his appointment as Sramik in APSRTC., Cuddapah. No doubt, the Mandal Revenue officer is a competent authority to issue the community certificate in respect of the Scheduled Caste. It is stated that basing on the Caste Certificate issued by the Mandal Revenue Officer, Cuddapah, the petitioner secured the job. Under Section 5 of the Act No.16 of 1993, the District Collector may either suo motu or on a written complaint by any person, call for the record and enquire

into the correctness of such caste certificate and if he is of the opinion that the certificate was obtained fraudulently, he shall, by notification, cancel the certificate after giving the person concerned an opportunity of making a representation". As long as the caste certificate is cancelled by the competent authority, it is not open for the APSRTC., authorities either to suspend or to conduct any enquiry.

Having regard to the facts and circumstances of the case, the officials of the APSRTC., are directed to forward the original caste certificates issued by the Mandal Revenue Officer, Cuddapah and Mandal Revenue Officer, Madanapalle of Chittoor District along with other Nativity and educational certificates of the petitioner so as to enable the District Collector, Cuddapah to make an enquiry into the correctness of the said certificates produced by the petitioner, for taking appropriate action and cancellation of the community certificate if it is found to be false. The District Collector, Cuddapah is directed to conduct an enquiry in respect of the certificates issued by the Mandal Revenue Officer, Cuddapah, basing on which, the petitioner secured the job in APSRTC., and pass appropriate orders after giving reasonable opportunity to the petitioner as expeditiously as possible preferably within four months from the date of receipt of this order. Till such orders are passed, the petitioner is entitled to discharge his duties and the officials of the APSRTC., cannot proceed with the enquiry as the competent authority is only the District Collector to conduct an enquiry and to take appropriate action for cancellation of the false community certificate. If the caste certificate produced by the petitioner is found to be false, necessary action may be taken against the concerned Mandal Revenue Officers, Cuddapah as well as Madanapalle for issuing false certificates without proper verification.

The Writ Petitions are accordingly disposed of. No order as to costs.

V.ESWARAIAH,J

4th August, 2004.

Note:

Issue CC in three (3) days.

B/o

Shr

Asst.Registrar.

To

1. The Managing Director, A.P.S.R.T.C., Musheerabad, Hyderabad.
2. The Works Manager, Zonal Workshop, APSRTC., Cuddapah.
3. The Asst.Works Manager-I, Zonal Workshop, APSRTC., Cuddapah.
4. The Asst. Manager (T-Enquiries) APSRTC., RM's Office, Cuddapah.
5. The Mandal Revenue Officer, Cuddapah .
6. The Mandal Revenue Officer, Madanapalle.
7. The District Collector, Cuddapah.
8. The District Collector, Chittor.
9. Two CCs., to the G.P., for revenue.
10. Two CD copies.